

IN THE MATTER OF WILLIAM WHITE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D. Potts (in the chair)
Mr. J. R. C. Clitheroe
Mr. J. Jackson

Date of Hearing: 26th May 2009

FINDINGS

of the Solicitors Disciplinary Tribunal
Constituted under the Solicitors Act 1974

An application was duly made by Saba Yousif a solicitor employed by the Solicitors Regulation Authority (SRA) at 8 Dormer Place, Leamington Spa, Warwickshire CV32 5AE on 28th October 2008 that William White, a solicitor, might be required to answer the allegations contained in the statement that accompanied the application and that such Order might be made as the Tribunal should think right.

The allegations against William White, the Respondent, were that:

1. He had delayed in progressing a probate matter to such an extent that he had compromised a solicitor's proper standard of work and/or he had failed in his duty to provide a reasonable standard of service to his client in breach of Rule 1 (e) of the Solicitors' Practice Rules 1990 and/or Rule 1.05 of the Solicitors' Code of Conduct 2007;
2. He had misled Mr Graham Smith, the managing partner of the firm in which he had been employed, in respect of the existence of letters of administration and a judgement regarding his client's claim against a third party in breach of Rule 1.02 of the Solicitors' Code of Conduct 2007;

3. He had allowed Mr Smith to mislead the client concerning the letters of administration and judgement in breach of Rule 1.02 of the Solicitors' Code of Conduct 2007;
4. He had "backdated" letters to give the impression that they had been sent out on an earlier date in breach of Rule 1 (a) of the Solicitors' Practice Rules 1990 and/or Rule 1.02 of the Solicitors' Code of Conduct 2007.

It was further alleged that the Respondent had behaved dishonestly in relation to the matters in allegations 2 and 4.

The application was heard at The Court Room, 3rd Floor, Gate House, 1 Farringdon Street, London EC4M 7NS when Sarah Dickerson appeared for the Applicant and the Respondent appeared in person.

The evidence before the Tribunal

The evidence before the Tribunal included the admissions of the Respondent to the allegations.

At the conclusion of the hearing the Tribunal made the following Order:

The Tribunal Orders that the respondent, William White, solicitor, be suspended from practice as a solicitor for an indefinite period to commence on the 26th day of May 2009 and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £1,500.

The facts are set out in paragraphs 1 – 16 hereunder:

1. The Respondent, born in 1962, was admitted as a solicitor in 1999. His name remains on the Roll of Solicitors.
2. The Respondent had been employed by Lees Lloyd Whitley Solicitors at Riverside Park, Southwood Road, Bromborough, Wirral CH62 3QX at all material times, from 27th May 2002 until 12th March 2008 when he had been dismissed for gross misconduct following an internal investigation.
3. By letter dated 27th March 2008, the Respondent had brought the following events to the attention of the SRA.

Allegations 2 and 3 – misleading the managing partner and allowing the managing partner to mislead a client

4. On 29th December 2006 the Respondent had been instructed by Mr O in respect of probate matters. On 31st January 2008, Mr O had complained on the telephone to Mr Smith (the managing partner) due to a lack of progress with the matter.

5. When Mr Smith had questioned the Respondent regarding the complaint, the Respondent had assured Mr Smith that he had obtained letters of administration and a judgement, and was awaiting the outcome of enforcement.
6. Mr Smith had informed the complainant that the matter had progressed as a result of what he had been told by the Respondent.
7. At a meeting with Mr Smith on 3rd March 2008, the Respondent had admitted to misleading Mr Smith regarding the existence of the letters of administration and a judgement.

Allegation 1 – delay and an unreasonable standard of service

8. The file review had shown that the Respondent had been instructed on 29th December 2006 and that the matter had been opened on the firm's computer system on 4th January 2007.
9. On 10th January 2007, two copies of a letter had been sent to Merseyside Pension Fund. Thereafter, nothing had happened on the file until 19th April 2007, when a letter had been sent to Liverpool District Probate Registry enclosing an oath and a cheque for £45.
10. Further to that, there had been letters on the file dated 15th May 2007 to Merseyside Pension Fund asking when funds had been paid to Mrs M. Another letter dated 15th May 2007 had been to Mrs M requesting the payment she had received to be returned.
11. A letter dated 24th May 2007 from Merseyside Pension Fund had appeared on the file stating that their discretion was based on the nomination form signed by the deceased. A letter dated 25th May 2007 in response had been sent enquiring about the consent.
12. After four letters in June and July 2007 and one in September 2007, the client had complained about the progress of the matter on 31st January 2008.
13. Since instructions had been given by the client to the Respondent on 29th December 2006, nothing of substance had occurred on Mr O's matter file.

Allegation 4 – backdating letters

14. The file review highlighted that documents produced on the file had been "backdated" in that they had an earlier date than when they had been created giving the indication that they had existed at the previous date, when they had not.
15. The file review showed that the following letters had been backdated:
 - (i) A letter to Merseyside Pension fund, which had been dated 10th January 2007, but which had been created on the firm's computer system on 22nd May 2007.
 - (ii) A letter to Merseyside Pension Fund which had been dated 15th May 2007, but which had been created on the firm's computer on 22nd May 2007.

- (iii) A letter to Mrs M which had been dated 15th May 2007, but which had been created on the firm's computer system on 22nd May 2007.
 - (iv) A letter to Merseyside Pension Fund which had been dated 5th June 2007, but which had been created on the firm's computer system on 12th June 2007.
 - (v) A letter to Mr O dated 12th June 2007 enclosing a letter dated 5th June 2007 when it had actually been created on 12th June 2007.
 - (vi) A letter to Mrs M which had been dated 5th July 2007, but which had been created on the firm's computer on 11th July 2007.
 - (vii) A letter to the police which had been dated 5th July 2007, but which had been created on the firm's computer system on 11th July 2007.
16. In a letter from the Respondent to the SRA dated 27th May 2008 the Respondent had stated:

“I cannot offer an explanation as to my conduct on the O file. My conduct was in breach of the relevant rules. I can't explain it to myself let alone anybody else. I will not seek to sling mud at others, I fouled up and I must suffer the consequences.”

The submissions of the Applicant

17. Having taken the Tribunal through the facts and the relevant documentation, the Applicant submitted that all the allegations had been both admitted and proved to the higher standard. She referred to the Twinsectra combined test for dishonesty and stressed that when lying to the managing partner, the Respondent had been aware that such conduct was dishonest by the standards of reasonable and honest people and that by those standards he had been aware that his own conduct was dishonest.

The submissions of the Respondent

18. The Respondent confirmed that he admitted all the allegations. He gave the Tribunal details of his professional history. The Respondent also explained in detail both the general problems related to his work, the specific circumstances of the matter resulting in the allegations and his own health problems. In response to a question from the Tribunal the Respondent provided details of his means.

The decision of the Tribunal

19. Having considered all the evidence together with the submissions of both the Applicant and the Respondent, the Tribunal was satisfied that all the allegations had been both admitted and proved. Although the Tribunal found that the Respondent had been dishonest in relation to the one matter from which the four allegations arose, it considered that indefinite suspension rather than striking off was appropriate in the particular circumstances. The Tribunal noted that the dishonesty had not been in relation to clients monies. It had been a one off event not a systematic course of conduct. The Respondent had not benefitted in any way from his conduct. He had

accepted his responsibility, self reported and had never sought to deny what had taken place. The Tribunal determined that when set in the context of his situation at the time, his dishonesty, while totally unacceptable, was not at the highest level. Accordingly, the Tribunal did not rule out the possibility of the Respondent being able to return to his profession in the future.

20. The Tribunal Ordered an indefinite suspension together with an Order for costs in the fixed sum of £1,500. It noted that the SRA would negotiate the payment of costs by way of appropriate instalments.

Dated this 8th day of December 2009
On behalf of the Tribunal

D Potts
Chairman